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ABSTRACT

This report describes activities and findings of Project SEARCH, an on-going qualitative research project investigating the current status of policies regarding children with disabilities in charter schools. The project has involved a preliminary analysis of all current charter laws to examine the inclusion of students with disabilities and a more focused investigation of charter schools in 14 states and the District of Columbia. Currently the project is conducting in-depth case studies of 7 of the 15 states to develop a set of policy recommendations that will be presented for review and validation at national meetings of general and special educators, parents, and representatives of charter schools. Findings to date have identified seven general categories pertinent to special education in charter schools: (1) state charter school laws, (2) the charter granting process, (3) charter school governance, (4) admissions and enrollment, (5) operational (staffing, technical assistance, facilities, and transportation), (6) finance, and (7) data collection and accountability. Findings suggest that charter schools fare better if they are "totally-linked" or "partially-linked" with a local district special education infrastructure and become part of a state or local "continuum of service." The somewhat disparate visions of charter schools and special education are seen as a major issue. (Contains 23 references.) (DB)

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Charter Schools and Special Education: Balancing Disparate Visions

An Investigation of Charter Schools and Special Education in Fifteen States

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During the 1999-2000 school year, more than 1,700 charter schools are operating in 31 states and the District of Columbia serving approximately 350,000 students (Center for Education Reform, 1999). The charter school movement is based upon the supposition that granting individual schools increased autonomy in exchange for more accountability will foster the creation of innovative and effective public schools. A great deal of research has been conducted about the charter school movement and individual charter schools (c.f. American Federation of Teachers, 1996; Bierlein & Mulholland, 1993; Education Commission of the States, 1995; Finn, Manno, Bierlein, & Vanourek, 1997; Millot, 1994; Rofes, 1998; U.S. Department of Education, 1997; 1998; 1999; U.S. General Accounting Office, 1995; Wells, 1998). Missing from the current body of research is sufficient information about how charter schools are implementing special education requirements and meeting the needs of children with disabilities.

"The percentage of students with disabilities varied little from state to state for all public schools, while this percentage varied greatly across the charter schools. In the 1997-1998 school year, the percentage of students with disabilities ranged from about 2% in New jersey to a high of about 25% of students in Florida" (1999, U.S. Department of Education).

According to the third-year report of The National Study of Charter Schools commissioned by the U.S. Department of Education, the charter schools studied report that an average of 8% of their student population is identified as students with disabilities. The comparable figure for all public schools in the states studied is 11% (U.S. Department of Education, 1999). However, little is known about if and how states, local districts, and individual charter schools are working together to meet the needs of children with disabilities enrolled in charter schools. A question increasingly arising in charter school circles and individual districts is how

to balance the autonomous and individualized nature of charter schools with the highly regulated nature of special education designed to ensure that all public schools are accessible to all students.

Most charter schools - 65% - enroll fewer than 200 students and 36% actually enroll fewer than 100 students (U.S. Department of Education, 1999). Due to their small size, charter schools with low enrollments, small staffs, and limited resources may be disproportionately affected by the costs associated with educating children with disabilities (Heubert, 1997). In addition, developing effective and appropriate special education programs in charter schools is a challenge due to the fact that public schools in general struggle to adequately fund special education (Parrish, 1996).

Meeting the needs of children with disabilities enrolled in charter schools is complicated by the fact that, because charter schools are new, state support mechanisms for charter schools are also new and continually evolving. Consequentially, state policies pertaining to charter schools and children with disabilities are evolving as are the technical assistance efforts. These challenges and other emerging issues pertaining to current policies and practices that affect special education in charter schools are the focus of Project SEARCH.

PROJECT SEARCH

Project SEARCH is a three year qualitative research project investigating the current status of policies regarding children with

disabilities in charter schools.[1] The purpose of Project SEARCH is to respond to the need for clarifying information about the evolution and implementation of special education policy in the nation's public charter schools.

During the first year, we conducted a preliminary analysis of all current charter laws to examine the inclusion of students with disabilities.[2] Following the preliminary review of all state charter operations, we conducted a more focused investigation looking at fourteen states and the District of Columbia (hereafter referred to as "states"). The purpose of the 15-state policy investigation was to gather more state specific information in order to identify issues related to the provision of special education in charter schools for further study. This document reports on the results of the 15-state policy investigation.

The second phase of Project SEARCH's research (currently in progress) builds upon our findings from the 15-state policy analysis. In-depth case studies of seven of the 15 states are being conducted to explore further the issues identified in the initial policy investigation. The seven case studies will be analyzed individually and across states to develop a set of policy recommendations.

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[1] Project SEARCH is a research collaborative directed by Eileen Ahearn at the National Association of State Directors of Special Education, in partnership with Margaret McLaughlin and Lauren Rhim at the University of Maryland, and Cheryl Lange, an educational consultant based in Minnesota.

[2] For more information about specific state charter school laws and students with disabilities see: Ahearn (1998). *Charter Schools and special education: A report on state policies*; Fiore, Warren & Cashman, (1998). *Charter schools and students with disabilities: Review of existing data*; Fiore & Cashman, (1998, September). *Review of charter school legislation provisions related to students with disabilities*.

As our final activity, these recommendations will be presented for review and validation at national meetings of federal, state, and district level general and special educators, parents, and representatives of charter schools.

METHODOLOGY FOR POLICY INVESTIGATION

The 15-state policy investigation utilized structured interviews in select states with key informants. The following section describes how we selected the states, key contacts, and the procedures used to collect and analyze data.

STATE SAMPLE SELECTION

In order to investigate states that represent the full array of charter school issues, we compiled an initial list of states with charter schools in operation for at least a year. From this list, we selected our sample states based upon: 1) length of time charter schools have been operating in the state; 2) number of charter schools operating in the state and; 3) the degree of autonomy granted charter schools from their local education agency (LEA) by the state charter school law. The 15 states in our sample were: Arizona, California, Colorado, Connecticut, Florida, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Rhode Island, Texas, Wisconsin, and the District of Columbia. These states represent a non-random, purposeful sample of the full range of existing options within the three characteristics listed above.

KEY STATE CONTACTS

The key state contacts in the states we studied were the state director of special education, the state director of charter schools (or a designated representative), and the state charter school resource center director or similar person in a technical assistance position. The three key informants provided information from multiple perspectives involved with state level policies pertaining to charter schools and children with disabilities.

DATA COLLECTION AND ANALYSIS

We conducted a record review of all relevant state documents and interviews with key state contacts. Our review included relevant state level documents pertaining to charter schools and occurred prior to conducting the telephone and face-to-face interviews. The interviews expanded upon and served to clarify information collected from primary documents. Examples of these documents include state charter laws, special education "Question and Answer" documents, and policy memoranda provided by the state administrator for charter schools or the director of a charter organization.

We developed an interview protocol based upon Project SEARCH's initial national scan of all state charter laws and special education policies, and it consisted of open-ended questions with probes to further explore particular issues in individual states. The protocols addressed the following general issues: charter school laws and regulations, facilities access and accommodations, finances, data collection and

accountability, relationships with traditional public schools, staffing, technical assistance, and transportation.

All total, we conducted 43 structured interviews with the three key contacts in the states over a six month period from August 1998 to January 1999. Interviews ranged from thirty to sixty minutes in length and were conducted by telephone or face-to-face. We documented the interviews by taking extensive notes that we subsequently coded for analysis.

The codes we used to frame our analysis were drawn from our initial policy scan of all state charter laws and additional codes emerged during analysis of the data. We used Ethnograph, a qualitative software program for data management and data analyses. Finally, we conducted a state-by-state and a cross-state analysis to identify the major issues emerging around special education in charter schools.

FINDINGS

Our state level investigation revealed that particular patterns and practices influence how individual districts and charter schools are delivering special education programs. We analyzed our data within and across states and synthesized our findings into the following seven general categories that are pertinent to special education in charter schools: 1) state charter school laws, 2) the charter granting process, 3) charter school governance, 4) admissions and enrollment, 5) operational (staffing, technical assistance, facilities, and transportation, 6) finance, and 7) data collection and accountability. In any discussion of charter schools, one

must to keep in mind that the schools vary significantly both between and within states. Therefore, while some generalization is possible, policy issues are often state, town, county, or even school specific. The remainder of this report presents our key findings, drawn from interviews, and record reviews, in these seven broad areas and the variability within these categories across the sample states.

AREA #1: STATE CHARTER LAWS

State charter laws are individual pieces of legislation crafted by state legislatures. The laws most typically outline who authorizes charters, who may receive charters, the goals and objective of charters, how charters will be funded, and the policies and processes to implement accountability systems that are central to the charter school concept.[3]

Charter schools are promoted as innovative and fresh alternatives to traditional public schools, but also potential catalysts for change in traditional public schools (Nathan, 1996, Rofes1998; Wells, 1998). In theory, if a local school loses students to a charter school, it will subsequently strive to improve in order to compete and retain or attract students (Rofes, 1998). In addition, some charter school laws are written to address other policy issues, such as desegregation or the need for additional services for students characterized as "at-risk." In these

[3] For an up to date review of state charter school legislation see: Jennings, W., Premack, E., Andelman, A., & Solomon, 1999. *A comparison of charter school legislation: Thirty-three states and the District of Columbia incorporating legislative changes through October, 1998.* Washington, DC: U.S Department of Education.

instances, the charter law contains specific language that encourages or requires charter applicants to proactively address these issues in their schools.

Once charter school laws are passed, states typically develop a charter school infrastructure to manage the application, chartering, and monitoring process. Most states have an individual state administrator for charter schools who is responsible for charter school policy issues. In a few states, responsibility for charter schools has simply been added to an existing position thereby providing only part-time attention to charter school policy development. In many states, charter school resource centers have been created by interested individuals or groups to serve as advocates for charter schools and provide technical support to charter school applicants and operators. In addition, charter school operators in some states have formed their own associations mostly funded by membership dues to provide mutual support.

"A charter school must comply with sections...and rules relating to the education of pupils with a disability as though it were a district" (Minnesota charter school law, 1998, p. 4.)

Because charter schools are first and foremost public schools, they cannot charge tuition and are legally prohibited from discriminating in their admissions. However, subtle nuances in individual state charter school laws serve to modify this basic requirement and shape the features and diversity of charter schools across the nation.

All of the states' in our study have charter school laws that contain general anti-discrimination provisions and the majority have specific language forbidding charter schools from discriminating against children

with disabilities. The charter laws in seven states (California, Colorado, Washington, DC, Florida, Louisiana, North Carolina, and Rhode Island), contain language that requires all charters to specifically target students labeled "at-risk" or "academically low achieving." States such as New Jersey, North Carolina, and Rhode Island have language in their law that requires that charter schools must reflect the diversity of their local community.

AREA #2: THE CHARTER GRANTING PROCESS

Charter schools are shaped by individual state charter school laws and by the process that states or districts develop to process charter applications. In general, after the state charter law is passed by the legislature and the state has developed some form of a state charter school infrastructure, the next step in developing charter schools is typically a state-wide call for proposals. Individual states have developed charter applications, an application review process, and actual charter contracting procedures that have varying degrees of specificity. Generally, states ask applicants to outline their educational program, organizational structure, student population to be served, admissions policies, assessment and accountability plan, facilities, transportation, and fiscal management plan.

Across all of the states in our study, informants reported that charter school applicants are perceived to be ill informed about special education programs and the rules and responsibilities that are attached to them. In addition, many charter operators are perceived to be poorly

problems if they do not incorporate special education from the beginning. They need to be able to serve everyone that walks through the door from the beginning. But it is impossible to be ready to serve everyone. Some schools only enroll 30-40 students and it is very hard to be prepared for a wide variety of students"
(State Resource Center Director).

informed about the full spectrum of needs of students with disabilities and how to address these needs appropriately. In fact, state informants report that some charter school operators do not know that they must enroll special education students that apply to the school. The following comments by a State Director of Special Education describe the lack of knowledge perceived to be common among new charter school operators reflecting a recurring theme that emerged during this investigation.

> The biggest change over time is attitude and knowledge. At the outset, no one thought that special education would be a significant issue. The first charter school applicants were totally unaware of the federal regulations (Section 504 of the Vocational Rehabilitation Act and the Individuals with Disabilities Education Act (IDEA)) and were very surprised that they had to abide by them. They were in a great rush to get the schools started and no one focused on information needs and there was a general perception that "our school is not designed for that kind of student." Most of the initial schools thought they could just exclude certain kids, particularly the private school conversions. Also, many charter founders did not know who was a "student with a disability" and didn't think parents [of children with disabilities] would be attracted to their school. They were totally unprepared and thought that students with disabilities were more severely disabled than they were.

Only nine of the 15 states in our study require all charter applicants to articulate how they propose to support children with disabilities. However, the requested level of specificity varies considerably. The application requirements range from a simple mandatory assurance to comply with "federal statutes" such as Section 504 and IDEA, to a specific outline of how the proposed charter will meet the needs of all exceptional children. For example, the state of New Jersey asks charter school

applicants to: "Describe how the charter school will meet the needs of students with educational disabilities in accordance with federal and state regulations" (New Jersey Charter School Application, 1999, p. 18).

Interviewees perceive that the simple assurance to comply with federal statutes is not adequate evidence that a charter applicant is aware of the duties and obligations stemming specifically from IDEA. In states that require applicants to "outline" or "describe" how they plan to serve children with disabilities, there is reportedly great variability in the substance of what applicants actually submit.

"Some charters had special education in mind from the beginning and build their school design to include addressing the needs of students with disabilities. Some target special education but others are just more aware of special education... Some of the schools have really put programs together that from the beginning focused on youngsters who in other schools may have found their way to special education. The schools offered instruction and a curriculum that was aimed to support students who have trouble learning" (State Resource Center Director).

The degree to which charter applicants address special education in their application is directly related to larger governance issues. For instance, in ten (10) of the 15 states we studied, charter schools are part of a local district. In these states, most charter applicants simply write that they plan to address special education needs by contracting with their local district. By contrast, in Minnesota, where charters essentially function as independent LEAs, applicants are asked to outline their special education program and it is reviewed by a special education consultant during the application process. The consultant reportedly assesses the applicants' educational plan for students with disabilities, staffing requirements, the projected number of students with disabilities expected to enroll, and a budget line for the additional costs associated with special education services to verify that the charter applicant has reasonable expectations regarding special education.

The degree of specificity regarding special education articulated during the chartering process regarding who is responsible for student referrals, evaluation, individualized education plan (IEP) development, service delivery, and funding was cited by some interviewees as very important to developing a successful special education program. These procedures may be outlined during the actual application process or during negotiations prior to finalizing a particular charter contract or, alternatively, as the need arises. A majority of our state informants asserted that it is judicious to address these issues prior to a school's charter being granted as opposed to when a student with a disability actually enrolls.

The small size of charter schools presents a major challenge in meaningfully preparing for children with disabilities during the application and chartering process. Charter schools must respond to the actual students that enroll, but anticipation of the specific special organizational and instructional services that will be necessary is almost impossible.

"*More intensive documents [the charter and contract] make the charter schools easier to manage because the charter and the contract force charter schools to commit to specific things*" (State Director of Charter Schools).

Conversely, a recurring comment that arose during our interviews was that conversion schools (existing public schools that elect to convert to charter status) are not encountering the same problems that new start-up charter schools are experiencing. A charter resource center director explained that: "The conversion schools have pretty much kept their programs in place and kept their relationship with their [district or

administrative unit]. The start-ups are having the most trouble. They really need information on their responsibilities."

Some states (e.g., the District of Columbia, Florida, North Carolina, and Texas) are beginning to address the challenges arising from lack of information about special education at pre-charter training conferences. These conferences of individual sessions within a larger conference are designed to inform charter operators about their responsibilities including guidance about how to develop a special education program. (Specific strategies to address the technical assistance needs of charter schools is discussed in greater detail later in the report.)

AREA #3: CHARTER SCHOOLS AND LOCAL EDUCATION AGENCIES

The relationship between a charter school, the state education agency (SEA) and the local education agency (LEA) is largely determined by individual states' charter legislation that specifies who can grant or receive charters and the degree of regulatory freedom provided charter schools. In general, charter school authorizers are state boards of education, local boards of education, some other designated entity such as a college or university or a combination of these. In states where the state board or another outside entity authorizes charters, the charter schools are often legally independent LEAs. In contrast, in states where the local district authorizes charter schools, these charter schools typically function as part of the LEA with varying degrees of independence from the district. Whether a charter is its own independent LEA or part of a LEA has

weighty implications for special education.

Another dimension of governance that is pertinent to children with disabilities is the substance of the relationship between the charter school and a school district or LEA or other administrative units such as intermediate units or cooperatives. (An example of such administrative units are the Special Education Local Planning Areas or SELPAs in California, and the Board of Cooperative Educational Services or BOCES in Colorado and New York). We discovered a great deal of ambiguity in the relationship between an individual charter school and these entities attributed to the fact that most state laws do not contain specific language about provision of special education in charter schools. For example, in a number of the states in our study, the identification of the party responsible for referral and assessment was one area cited as ambiguous in the relationship between charter schools and local education agencies. Based upon our interviews, the full Project SEARCH team developed a preliminary typology to categorize the relationship between charter schools and local education agencies or equivalent administrative units that helps explain and particularize some of the major issues charter schools are struggling to resolve in terms of special education. Our typology essentially consists of designating charter schools' relationship to an LEA or administrative equivalent for special education as "total link," "partial link," or "no link."

A "total link" charter school is part of a traditional LEA's special

education system. A "partial link" charter school is legally independent, but there is a legislated requirement for a negotiated relationship with the traditional LEA or equivalent administrative unit, or a legislated protection for special education responsibilities at the LEA level. Finally, a "no link" charter school the school is legally independent and operates autonomously from LEA control. Any relationship with the LEA is entirely voluntary for the charter school and the LEA.

The relationship or "link" between the charter school and a district or intermediate unit may be defined by official policy and/or it may evolve from need and entail negotiations between individual districts and charter schools. The relationships may also differ by school within the same state policy framework largely dependent upon school level issues and relationships among individuals.

Interviewees consistently pointed to the strength of the relationship between a charter school and a local district or administrative special education office as a major factor that facilitates the implementation of special education policy and services in charter schools. In many instances, this appears to exist at a personal level (e.g., the relationship between a charter school director and district special education director), but can also be a function of specific state or district policies.

In order to further clarify the somewhat complex relationship between charter schools and LEAs, we refer to official policy regarding the relationship as the "prescribed relationship" and the evolution of that policy

into actual practice as the "actual relationship" Figure 1 presents the two dimensions of the relationship between charter schools and LEAs – prescribed versus actual - and provides a framework for further investigation of the nature of the relationships, including contributing factors.

Figure 1

Actual Charter School-LEA Relationship

Official State Prescribed Relationship

State Policy	*No Link*	*Partial Link*	*Total Link*
No Link ***State A***	Charter Schools	Charter Schools	
Partial Link ***State B***	Charter Schools	Charter Schools	Charter Schools
Total Link ***State C***		Charter Schools	Charter Schools

Figure 1 shows that within states in our sample, the relationship between individual charter schools and an LEA, or equivalent administrative unit, regarding special education is influenced by formal policy and informal relationships and is therefore variable between and within states. In other words, while state policy dictates into which box a state fits in the first column, actual local and school level policy and other factors enable individual schools within that state to potentially be categorized in all three of the columns.

For instance, in hypothetical state A, the state charter law dictates that charters are independent LEAs, (i.e., a "no link" state). However, in practice, some charters in state A have negotiated individual relationships with a local district and in fact are "partially linked." In one of the states we studies that we characterized as "no link," we were provided specific examples of schools and districts that have exemplary cooperation surrounding provision of special education. In these cases, the local district helps the charter schools locate staff, provides technical assistance, and helps with IEP development. Yet, in a different "no link" state, everyone that we interviewed agreed that the local school systems disavow the charter schools and provide no help.

In states that we categorized as "partial-link" (State B in Figure 1) due to the manner in which their state charter school law is written, we found examples of "no-link", "partial-link", and "total-link" charter schools. A state director of charter schools in a "partial link" state described how some of the charters in the state operate: "Charters are responsible for providing services and they currently use one of three options: 1) provide services directly themselves, 2) contract with a third party, or 3) contract with their local district." The state director characterized the current status as a "good blend of local control and central control…Charters are in control of their basic services but for larger services, they can benefit from being part of the district."

Finally, in yet another state, the state law specifically dictates that

the LEA is responsible for providing special education in charter schools. This language led us to characterize the state as a "total-link" state represented by hypothetical State C in Figure 1. However, in practice, the charter schools in this state have variable linkages with LEAs largely dependent upon what the two entities negotiate. To further explain, in one "total link" state, the law requires that the school district in which the student resides shall hold the IEP meeting and invite representatives from the charter school to participate and that district must pay the state charter school for costs above the regular student cost. In this state, some charter schools hire their own staff and bill costs back to the LEA, while other charter schools have negotiated for the delivery of services by LEA staff.

In "total" and "partial link" states, the absence of specific guidance regarding how special education programs are to be governed has reportedly caused confusion and tension between new charters and traditional LEAs. Often, neither the charter school nor the district school is clear about where its responsibility for special education begins or ends. Specifically, charter schools and local districts are struggling to negotiate who is responsible for areas such as assessment and evaluation of students referred to special education, development of IEPs, actual provision of services and, how federal, state, and local special education dollars are supposed to flow to charter schools. A state director of charter schools assessed the situation in his state as:

> The questions for charters is who has ultimate responsibility for special education? The local board approves, authorizes and monitors, they may send off the responsibilities of day-to-day operations [to charter operators] but they [the local board] are ultimately responsible for the larger civil rights issues around special education, dismissal, and desegregation.

A state resource center director quipped that it "Comes down to where's the money?" And finally, a state director of charter schools explained that: "Relations between school districts and charters are all over the place, some are great, others are terrible. It's all politics."

Regardless of their relative "linkage," there remain unique challenges associated with the relationship between charter schools and local districts. Policy makers in "no-link" states reported concerns stemming from charter schools operating independently of local districts and the benefits that emanate from an established infrastructure. However, "total-link" and "partial-link" charter schools are reportedly struggling to balance potentially disparate visions between the district and the charter school regarding how special education is delivered. For example, a district may decide that a student needs pull-out services even if the mission of the charter dictates that all students are included in the general education classroom. Conversely, districts with "partial-linked" charter schools are reportedly struggling to balance the fact that the district carries responsibility but no control of the actual services delivered to students with disabilities who attend charter schools. A special education consultant in a "partial-link" state explained:

"In the arena of special education, charter schools must position themselves within a continuum of services of a district or state" (State Charter School Special Education Consultant).

> The charters are pretty autonomous and yet in special education they need to have a much greater relationship with their LEA. For example, the district may want to hire its own special education staff for charter schools but the charter wants to control staffing to ensure its philosophy.

This quote demonstrates the challenge of balancing charter school autonomy with the reality that in "partial-link" and "total-link" states, LEAs remain legally responsible for assuring that all children receive a free an appropriate education in the least restrictive environment as dictated by IDEA.

The issue of linkage is a delicate but critical component of a charter school's existence. The states in our study have witnessed their individual charter schools struggling to balance appropriately meeting the needs of all students while simultaneously honoring their desire for autonomy.

AREA # 4: CHARTER SCHOOL ADMISSIONS AND ENROLLMENT

The issue of enrollment brings to light the larger philosophical rift between charter schools and special education that emerged during our investigation. The charter school movement has led to the creation of unique "niche" schools that can offer small, specialized programs in areas such as arts, science, technology, specific ethnicity's and cultures, and exceptionality. However, in accordance with state charter law, charter schools must also make assurances that they will not discriminate in their admissions policies. A number of state informants articulated challenges associated with balancing the fundamentally disparate visions underlying public charter schools and special education. For example:

> The biggest challenge is that special education law and ideology is based on the thought that all schools need to be all things to all people, to accommodate everyone who walks through the door, but we have allowed charters to focus their program and not be all things to all people. Freedom to particularize at the building level runs against special education's philosophy of serving everyone...Most charters are not anti-special education, but there are limits. Particular environments or approaches may not fit all students. Charter [schools]-one size does not fit all… there is a need to balance special education with a charter's mission and this is the "rub". Counseling out is a concern (State Charter School Director).

> The problem with charters and special education is that they are like yin and yang. Charters are built on the notion that small schools offering focused programs are good for students but special education is driven by the belief that all public schools should provide access to all students. All charters can't really be all things to all students- this is the challenge (State Charter School Resource Center Director).

> There is probably a mismatch between the charter schools concept and IDEA...[but] it would be unacceptable to not make the [charter school] option open to students with disabilities. All of the arguments we have here are the same as those from small districts (State Director of Special Education).

All of the states in our study are reportedly wrestling with how to blend the apparently disparate visions of charter schools and special education. As mentioned above, all of the states in our sample require that charter schools make assurances that they will not discriminate in their admissions policies. However, actual enrollment reflects both who the school allows to enroll and who chooses to enroll.

An issue raised by a number of state level informants is intentional and unintentional barriers that children with disabilities encounter at charter

schools. One of the early concerns raised by critics of school choice, is that schools of choice will "cream" the best students from traditional public schools and consequentially, leave only the most challenging and difficult to educate students in the traditional public schools (Fuller & Elmore, 1996). These concerns can logically be extended to include children with disabilities.

State officials perceive that some charters do not fully understand their obligations and legal duty to educate all children. As discussed earlier, this may be due to lack of information or, intentional barriers to discourage students with disabilities from enrolling. A few state informants expressed concern that some charter schools are essentially functioning as private schools that subtly, or not so subtly, select students for enrollment. Consequentially, students with disabilities may feel that some charter schools are not an option or choice for them.

The notion of "counseling" children with disabilities into or out of charter schools is a recurring concern among disability advocates and is reflected in our interview data. Individuals in more than half of the states in our study perceive that some students with disabilities are in fact being "counseled" out of charter schools. However, informants also reported that in some districts, "challenging" students are being counseled out of the traditional schools and into charters. This notion has been previously noted by other researchers (e.g., McLaughlin, Henderson, Ullah, 1996; McKinney, 1996). The counseling in and out is not limited to students

with disabilities, but is also reportedly occurring with non-disabled students who are particularly challenging in their home schools.

Some informants expressed the opinion that, in some cases, counseling in and out may in fact be in the best interest of children. For instance, in one state in our study, there are a number of charter schools currently operating that focus upon students identified as "at-risk." Interviews with various policy makers in this state revealed that students who would be disproportionately at risk in the traditional public schools are being encouraged to enroll in the specialized charter schools and are excelling in these schools. Other states, such as Colorado, Florida, and Minnesota, have chartered schools that specifically cater to students with disabilities. Although these schools must technically allow all students to enroll, they typically specialize in educating students with a particular disability such as autism, deafness, or behavior disorders.

"*The big [traditional school] system is depersonalized and parents are flocking to the charters because they are more personalized*" (State Special Education, Charter School Consultant).

In other places, the specific curriculum, for example an "open" or progressive education that focuses on self-directed learning, may not in fact be appropriate for all students. Some state level informants also report that there are issues around "goodness of fit" of a charter school's curriculum and individual students. Charter school operators are reportedly struggling to balance how much they should or must modify their unique curriculum to meet the needs of students with potentially diverse disabilities and consequent special needs. Nonetheless, charter schools are perceived to offer unique opportunities, due primarily to their small size, that genuinely

benefit children with disabilities. For instance, policy makers in a number our sample states believe that parents of children with mild disabilities are enrolling their children in charter schools because they offer small, more individualized classroom instruction.

However, at the other extreme, a few of our informants reported that there are charter schools that don't want to take children with disabilities due to philosophy or cost or perceived disruption due to the need to modify or accommodate their program for children with disabilities. These schools are finding themselves in conflict with the district or a parent over how much accommodation is reasonable to expect. Conversely, in other instances, the basic philosophy of a charter may be more inclusive in general and therefore, including a child with a disability is relatively seamless.

A number of our state informants reported that some charters are enrolling disproportionate numbers of children with mild to moderate disabilities, primarily learning disabilities, and very few with significant disabilities. While this trend raises issues about access, the majority of state policy makers speculated that parents of children with more severe disabilities are not being denied admission but rather, are not choosing to enroll their children in charter schools. A state special education consultant stated that: "Parents look at the charters and see that the district offers their severely disabled child more services." State informants presume that, in general, students with low incidence disabilities are receiving adequate

services in their current public school and are not choosing to enroll in new charter schools.

Nearly all of the study respondents reported that some charter schools are enrolling students with disabilities without formally identifying them or developing IEPs. In some instances, students who were previously identified as needing special education services may enroll in a charter school and there is a "mutual" decision between the charter school administration and parents to discontinue special education services without formal IEP dismissal despite the potential liability involved in such a procedural violation. One state informant summed up the perception of many informants when he said that parents and charter operators think "small classes are going to solve the problem [disability]."

Another challenge that charters are addressing is the fact that parents who enroll their children in charter schools sometimes choose not to share the fact that their child was previously identified as having a disability. State officials believe that parents are searching for a better alternative to the traditional public schools and are either consciously or unconsciously withholding the information. However, the child's history may be revealed later if the student experiences difficulty in the school. Numerous state policy makers expressed concern that uninformed charter operators are not following federally mandated procedures concerning changing a child's placement. This has many implications for charter

schools that may be vulnerable should a parent subsequently file a due process complaint.

Perceptions about identifying or not identifying students as eligible for special education are difficult to verify because, at this time, none of the states we studied report tracking students with disabilities who are leaving traditional public schools to enroll in charter schools. In addition, the relatively small number of students enrolled in charter schools may not represent adequate numbers to detect district level changes in enrollment of children with disabilities when enrollment data are aggregated at the district or state level.

A question that has arisen in a number of states is the locus of responsibility for special education students enrolled in charter schools who require private or residential placements? A private placement can cost tens of thousands of dollars per year. In states where charter schools remain part of their LEA, (i.e., "totally-linked" or "partially-linked") the district remains fiscally responsible because students enrolled in the charter are still part of the district. Massachusetts and New Jersey's charter laws specifically state that if a child is identified as needing private day or residential placement, responsibility for that child returns to the local district. The following excerpt from the Massachusetts Charter School law articulates this type of special exception for charter schools:

> ... the fiscal responsibility of any special needs student currently enrolled in or determined to require a private day or residential school shall remain with the school district

> where the student resides. If a charter school expects that a special needs student currently en-rolled in the charter school may be in need of the services of a private day or residential school, it shall convene an individual education plan team meeting for said student....Personnel from the school district in which the child resides shall be allowed to participate in the team meeting concerning future placement of the child (Massachusetts Charter School Law, 1996).

However, in states where charters are considered independent LEAs (i.e., "no-link"), the charter school is legally responsible for all students including students who require private or residential placements. It is less clear in the District of Columbia's law, but in practice, the local district and not the charter is currently taking responsibility for private, residential placements.

The exception for private placements has caused some tension and anxiety in Massachusetts and New Jersey. State and district policy makers are reportedly apprehensive due to their fear that charters will over identify students for more restrictive placements in order to shift the fiscal responsibility back to the district. In addition, some state and district administrators have reportedly expressed frustration that charters should not be exempted from responsibility for private and residential placements. However, to date, neither state has detected any abuse of this provision.

AREA #5: OPERATIONAL ISSUES: CONSIDERING STAFFING, TECHNICAL ASSISTANCE, FACILITIES, AND TRANSPORTATION

Operating a public school is a complex endeavor that incorporates educational and management issues. We know that charter school operators nationwide are struggling to address "operational" type issues

that are not unique to special education (McLaughlin, Henderson, & Ullah, 1996; Finn, Manno, Bierlein, Vanourek, 1997; Hassel, 1999; U.S Department of Education, 1997, 1998, 1999) . However, for purposes of this study we asked respondents whether special education is posing particular challenges for operators in the areas of staffing, technical assistance, facilities, and transportation above and beyond the typical issues faced by charter schools.

STAFFING

Most states provide charter schools with varying degrees of flexibility regarding staff qualifications. The flexibility ranges from relatively liberal laws that do not require charter school teachers to be certified, to more prescriptive laws that require that a specified percentage of teachers or all teachers be certified (Jennings, Premack, Andelmam & Solomon, 1999). While general education teacher licensure is based on individual state laws, special education teacher licensure is driven by IDEA that dictates that "The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part [special education] are appropriately and adequately prepared and trained" [20 U.S. Chapter 33, Section 1412(15)(A]. According to the new IDEA regulations, "appropriately and adequately prepared and trained" translates into "the highest requirements in the State applicable to the profession or discipline in which a person is providing special education or related services (1999, CFR 34, Section 300.136). In practice, this

regulation essentially requires that all teachers who deliver special education to children with disabilities must be certified in special education. This requirement is in apparent conflict with many states' charter laws that provide flexibility in the area of teacher certification.

Nearly all of our sample states report struggling with a shortage of special education teachers and related services professionals. State informants perceive that the general shortage of special education teachers is compounded for charter schools by the fact that 1) many do not pay the same amount as local district schools, 2) the future of an individual charter school is indefinite and teachers may be hesitant to leave secure traditional public school positions for charter schools, and that, 3) special education teachers in small charter schools are required to "wear a lot of hats" that would normally be spread among a larger district special education staff.

As might be expected, the degree to which charter schools are struggling to recruit and hire qualified special education teachers is related to the general availability of special education teachers in the state. For instance, informants in the states of Arizona, California, the District of Columbia, Florida, Louisiana, Minnesota, and North Carolina reported a general special education teacher shortage and, predictably, their charter schools are struggling to hire special education teachers and related services personnel. In fact, some informants reported that the charter schools are exacerbating the general teacher shortage. Conversely, the

states of Connecticut and Massachusetts report that there is not a shortage of special education teachers for charter schools or the state in general.

TECHNICAL ASSISTANCE

Many of our state level informants characterized charter school founders as education "visionaries" or "idealists" who generally have little practical experience operating a public school or a special education program. Across the sample states, all of the key informants reported that special education presents a challenging learning curve, and charter school founders are struggling due to a lack of knowledge regarding federally regulated policies and practices. This lack of knowledge on the part of many of the charter operators is complicated by the lack of clarity in some state charter laws and subsequent policies regarding charter schools' roles and responsibilities in the area of special education. In response to the need for more information, states are providing technical assistance in a variety of ways such as providing services or underwriting a staff position to assist charter schools in the area of special education.

"*The greatest challenge is the size of the charter school and staff capacity. Special education expertise is limited in a very small school. Charters are prone to saying "we can't handle..." I think that this is a technical assistance thing.*" (State Director of Special Education).

Direct technical assistance services typically include incorporating special education into charter school meetings, conferences and standard mailings. In addition, numerous states reported that they have special education "Question and Answer" documents, manuals, or are currently drafting manuals to assist charter schools navigate state specific special education rules and regulations. Charter school resource centers were highlighted as a key source of technical assistance. The resource centers

typically provide a variety of services ranging from assistance during the application phase, to organizing job fairs to assist charter schools recruit teachers and in one state, even pro-bono legal assistance to help bring charter schools up to state code. A resource center director explained that:

> We are proactive and reactive with our assistance. The majority of our special education technical assistance is in the area of compliance and administrative issues as opposed to classroom practices. We typically provide workshops, small group discussions and presentations about special education. We talk about how to manage special education and the audience is typically school managers and aimed at policy issues.

Technical assistance during the charter application process and initial school start-up were identified by our informants as critical to informing charter school operators about their responsibilities to students with disabilities. In one of the more established charter states, the state director of charter schools explained that their technical assistance has evolved to meet the needs of the start-up schools:

> The state provides a "charter starter" packet to starting charter schools and then does a follow-up. Special education is a great concern because the laws are complex and there is a need to keep up with changes. State guidelines are thorough on procedures. A state consultant…is assigned to each charter. They go out and see the school as soon as it is chartered and parents or others can call the consultant if there are problems.

However, informants from states that are relatively new to the charter school movement perceive that their states' technical assistance processes are not always equipped to address issues stemming from starting a special education program from the ground level as opposed to

issues that typical arise in established special education programs. State regional technical assistance centers or units are reportedly struggling to address the very basic needs of fledgling charter schools. For instance, a few informants commented that technical assistance sessions for charter schools start with introducing IDEA and the various acronyms and paperwork that public school operators are expected to know. This is in contrast to more sophisticated discussions about how to deliver an effective special education program. A state director of charter schools described the charter schools in terms of special education as "babies that need to be spoon fed in contrast to the more established districts that we have been serving for years. We are starting to understand that we have to pick up the slack."

A number of state directors of special education commented that charter operators are not taking advantage of all of the technical assistance that is available to them. For example, attendance by charter school staff at special education sessions is reportedly low, and many operators reportedly do not seek technical assistance unless they have students with disabilities actually enrolled in their school.

"Technical Assistance to a certain degree is about accessing help and not all the charters are accessing resources within the district that are available to them" (State Director of Special Education).

Half of the states in our study have hired special education consultants to assist charter schools before, during, and after the application process to develop a special education program. The consultants typically work out of the state charter school office or the state charter school resource center. The charter school special education

consultant is emerging as a key resource for charter schools negotiating the challenges of developing an appropriate and effective special education program. Our discussions with these consultants revealed that a great deal of their time is spent informing individual charters about their responsibilities and connecting them to state, district, and community resources. In other states, current staff in the charter school office, special education office or the state resource center typically provide individual charter schools technical assistance regarding special education. A charter school resource center director explained that she: "urges charter schools when they negotiate their contract to seek clarification [regarding special education] then, and urge districts to treat them like any other school in their district with regards to special education." Being proactive regarding special education is perceived to save schools from scrambling to serve a child with a disability once they enroll. Finally, a number of the state policy makers that we interviewed reported that their charter schools also access assistance through the Charter Friends Network, a national-level resource organization.

FACILITIES: ACCESS AND ACCOMMODATIONS

Across all fifteen states included in our policy examination, accessibility of charter school facilities for students with disabilities is not perceived to be an obstacle. While facilities are a challenge for charter schools in general, access and accommodations for students with disabilities are reportedly not a major issue because most states require

schools to meet standard health and safety standards, including the Americans with Disabilities Act, prior to opening. In a few states that do not require that schools be accessible prior to opening, access issues are reportedly being addressed on an as-needed basis. However, we know that at least one charter school located in one of the states in our study has had its charter revoked for failing to comply with accessibility requirements. In addition, at least one state reported that while access is not an issue, finding adequate space for pull-out services in charter schools is a challenge because charter schools are typically located in small, non-traditional facilities.

TRANSPORTATION

"… The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in a local school administrative unit in which the school is located"
(North Carolina Charter School Law, 1997).

Individual state charter laws typically designate whether or not charter schools are required to provide regular home to school transportation to all of their students. These requirements are generally consistent with the requirements of traditional public schools. The charter school laws do not, however, mention the transportation of students with disabilities. However, state policy makers reported that, while transportation of students with disabilities is potentially a sizable cost, it has not been a unique issue or concern in charter schools.

AREA #6: FINANCING SPECIAL EDUCATION IN CHARTER SCHOOLS

Public school special education programs are supported by local, state, and federal dollars. Financing special education is a challenge for

both traditional and chartered public schools. In fact, during the past decade, general policy concerns about the cost of special education have stimulated special education finance reform across the nation (Parrish, 1996). Largely dependent on the state public school funding formula and individual state charter school laws, charters receive their special education funds from their LEA or directly from the state and federal Departments of Education. In our discussions with state level policy makers, we focused on how special education is funded in charter schools and any issues or challenges regarding special education finance in charter schools. The two issues that our informants reported as most significantly affecting special education funding in charter schools are the amount of special education money they receive and state distribution formulas.

A small school budget means that a high cost student could have a disproportionate impact upon the overall school budget. A state director of special education explained that:

> One area that causes problems for charters is understanding excess costs and the state weighted funding formula. New charters will come to the state and say that they have a child with a disability who needs these services and expect the SEA to pay the total costs. They are surprised when they find out what they get.

Individuals in most of the states in our study noted that charter operators are nervous about the "$50,000 dollar student" who will require a disproportionate amount of the charter school's budget. However, informants also commented that these fears have generally not been

realized because high cost students are not choosing to leave their traditional public school to enroll in charter schools

In about half of the states in our study, individual charter schools are considering joining or forming cooperatives to pool financial, staffing, and other resources to provide services to students with disabilities. Risk pooling is perceived to be very beneficial to charter schools because it provides individual small charters access to additional resources. However, individual charter schools in some states have encountered some resistance from established cooperatives that are reticent to "buy into" the charter school's risk. In addition, charters are experiencing challenges associated with having only a small number of geographically dispersed schools to form a critical mass for purchasing services.

"There is a general lack of financial expertise among charter school founders and this plays out for special education for paperwork issues. There is a looseness of management that needs to be monitored" (State Director of Charter Schools)

In order to receive special education funding, all public schools must submit a count of the number of children with disabilities enrolled with IEPs. To receive federal special education money, states submit a child count as of December 1st of each year. In some cases, charter schools wait a full year to receive the funding because their students are not included in the count taken prior to their opening. In addition some charter schools are reportedly not collecting good data regarding their enrollment. The funding lag and inadequate or inaccurate data can create hardships for charter schools that must provide special education services without the additional resources. In some cases, states are making exceptions for

charter schools by modifying their distribution formula in order to advance charter schools money for special education.[4]

AREA # 7: DATA COLLECTION AND ACCOUNTABILITY FOR CHILDREN WITH DISABILITIES ENROLLED IN CHARTER SCHOOLS

Accountability for student performance is one of the cornerstones of the charter school movement. However, at a time when public schools in general are struggling to include children with disabilities in increasingly rigorous state standards, there is little information available about how states are monitoring their largely autonomous charter schools to ensure that children with disabilities are receiving a "free appropriate public education." State informants, when asked about how charter schools collect student enrollment and performance data and how they are being held accountable for children with disabilities enrolled in charter schools, revealed that specific policies and lines of responsibility regarding monitoring enrollment and performance of children with disabilities enrolled in charter schools are unclear.

The lines of authority are largely determined by the governance structure of the charter schools. In states where charter schools are considered part of their LEA or equivalent administrative unit (i.e., "total-link" and "partial-link" states), monitoring is typically the responsibility of the LEA because the district "owns" the students enrolled in the charters.

[4] The U.S. Department of Education published a proposed regulation in the Federal Register on 5/28/99 that is designed to provide a remedy for this problem. The final regulations were promulgated 12/22/99.

"*Data collection is an issue. More than [a third] of the charter schools did not file their December 1 child counts. Charter operators don't know a lot about reporting*" (State Director of Special Education).

In states where charter schools are considered independent LEAs ("no-link" states), individual charter schools are responsible for reporting data on student enrollment and student performance comparable to any other traditional district. Charter schools in these states are reportedly struggling to navigate complex statewide data management systems (e.g., the Texas Public Education Information Management System, PEIMS or North Carolina's Student Information Management System, SIMS) that are geared toward large comprehensive districts. A charter school resource center director explained:

> Data collection is conducted by charters as an independent LEA. Little schools are being asked to do all the reporting that a district would do. The state data computer program is just not designed for the individual school level. It is over burdensome. It is difficult for them [the charter school] and for the state Department of Education. The data system is not charter friendly and charters are struggling with using the system. I am working with a user group to modify the system and enable charters to use it and, in turn, submit data that are usable to the state.

In addition, four of our sample states reported that charters are under-counting students with disabilities for their December 1 child count. The undercounting leads to lower federal funds for the state. That in turn disproportionately affects charter schools with relatively small budgets.

In all the states in our sample, charter schools must comply with state standards and assessments. And, in accordance with the IDEA, children with disabilities must have access to the general education curriculum that is associated with state standards and take the state

assessments or an approved alternate assessment. However, outside of actual student enrollment reporting, states are taking different approaches to compliance monitoring of charter schools and specifically monitoring of special education. Some states are monitoring charters on the same three or five year cycle they monitor traditional LEAs, while other states are making a point to visit or audit new charter schools on a more regular basis. Across our sample states, there is a reported lack of clear policies and follow-up regarding monitoring special education and specifically the adequacy of individual special education programs in charter schools.

SUMMARY

A great deal of research has addressed various aspects of the charter school movement and individual charter schools. However, relatively little is known about how states, local districts, and individual charter schools are working together to meet the needs of students with disabilities enrolled in charter schools. More specifically, the focus of our study was how states and individual districts are working with their charters to navigate special education laws and negotiate amenable relationships in order to appropriately serve students with disabilities.

Our state level policy investigation revealed particular patterns and practices across states that impact how individual districts and schools are delivering their special education programs. In particular, our research suggests that individual state charter school laws, charter school governance, state technical assistance infrastructures, and state special

education funding formulas influence charter schools' capacity to develop effective special education programs. In addition to these administrative issues, there is a philosophical gap between the individualized, autonomous nature of charter schools and highly regulated special education programs.

Evidence from our investigation suggests that charter schools fare better if they are "totally-linked" or "partially-linked" with a local district special education infrastructure and become part of a state or local "continuum of service." This relationship enables charter schools to operate within the infrastructure of the larger district's or intermediary unit's special education program and become one option in a larger continuum of special education placements and services.

Ultimately, the major issue emerging concerning charter schools and students with disabilities is how to bridge the somewhat disparate visions of charter schools and special education. The basic premise of the charter school movement is that individual schools will be granted greater autonomy in exchange for accountability in the hope that autonomy will foster innovation and more effective public schools. In contrast, special education is highly regulated by nature of the fact that the last 30 years have been dedicated to ensuring equal access for all students to all educational opportunities. As public schools, charter schools have the same duties and responsibilities as traditional public schools to provide a free appropriate education to all students with disabilities. This requirement compels charter school advocates and operators to work with

state and district level policy makers to find a balance between the apparently disparate visions of charter schools and special education. The legal requirements of IDEA and state special education regulations may potentially pose barriers to the level of autonomy envisioned by some charter school proponents. Hence, we propose that the greatest challenge facing charter school operators regarding special education is how to effectively commingle the two visions.

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